



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed August 25, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 22, 2015. At petitioner's request Hearings scheduled for November 17, 2015 and October 13, 2015 were rescheduled.

The issue for determination is whether the Division of Hearings and Appeals ["DHA"] has jurisdiction in this matter.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED] NEMT Contract Monitor (Mr. [REDACTED] did not appear at the
December 22, 2015 Hearing but submitted a letter dated September 10, 2015)
Division of Health Care Access and Accountability
1 West Wilson Street
P.O. Box 309
Madison, Wisconsin
53701-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (64 years old) is a resident of Dane County, Wisconsin.
2. By an undated handwritten letter received by DHA on August 28, 2015 via U.S. Mail postmarked August 25, 2015 petitioner requested a Hearing “due to the reduction, then suspension and now termination of my Medicaid benefits. [sic] by MTM, Inc.” MTM, Inc., is Medical Transportation Management, Inc.; MTM is under contract with the State of Wisconsin to provide Non-Emergency Medical Transportation [“NEMT”] services to Wisconsin MA recipients.
3. There has been no reduction, suspension or termination of petitioner’s MA NEMT benefit.

DISCUSSION

DHA can hear and decide a case on the merits only if there is legal authority for it to do so. In legal language this is called *jurisdiction*. If there is no jurisdiction, the case must be dismissed. Wis. Admin. Code § HA 3.05(4)(a) (February 2013).

For MA, DHA has jurisdiction only in the following types of cases:

- (1) when an application for MA is denied;
- (2) when an application for MA is not acted upon promptly;
- (3) when a person believes that the payment made in the person's behalf has not been properly determined; and
- (4) when a person believes that his or her eligibility has not been properly determined.

Wis. Stat. § 49.45(5)(a) (2013-14); See also, 42 C.F.R. § 431.220(a) (2016); Wis. Admin. Code § HA 3.03 (February 2013).

In this case, petitioner has not been subject to any of the above actions. None of the above listed jurisdictional circumstances exist. Therefore, petitioner's request for a Hearing must be dismissed because DHA has no jurisdiction (i.e. no legal authority).

Petitioner argues that he “Was denied Medicaid benefits before and after complaining about a reduction of his Medicaid benefits when defendants informed plaintiff that his benefit was being changed from NEMT via/by secure car to NEMT via Madison Metro bus line . . . ” However, this is not a denial (nor is it a reduction or suspension). Transportation provided by a county or tribal agency or its designee shall involve the least costly means of transportation which the recipient is capable of using and which is reasonably available at the time the service is required. Reimbursement shall be made in the most cost-effective manner possible and only after sources for free transportation such as family and friends have been exhausted. Wis. Admin. Code § 107.23(3)(c)3. (August 2015). Bus passes are specially allowed as a type of NEMT. 42 C.F.R. § 440.170(a)(4) (2016); See also, Wis. Admin. Code § 107.23(1)(a)(1) (August 2015); *Medicaid Eligibility Handbook* 21.4.2.3; and, *BadgerCare Plus Eligibility Handbook* 38.3.3.

Petitioner also appears to argue that he is physically incapable of using the bus system. He states that he suffers from numerous ailments. However, he presented no medical documentation which shows that he is physically incapable of using the bus system (even though the November 17, 2015 Hearing was rescheduled to allow him time to do so).

Finally, petitioner requested formal discovery under chapter 804 of the Wisconsin Statutes. As was explained to petitioner, formal discovery is not available in this type of matter (this is not a class 2 proceeding). See, Wis. Stat. § 227.45 (2013-14).

CONCLUSIONS OF LAW

For the reasons discussed above, DHA has no jurisdiction in this matter.

NOW, THEREFORE, it is

ORDERED

That: the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

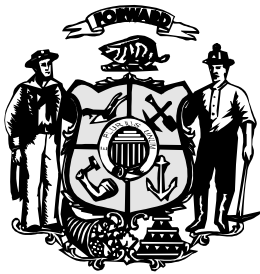
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 13th day of January, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 13, 2016.

Division of Health Care Access and Accountability

